

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MALIBU MEDIA, LLC,

X
Plaintiff
:

vs.
:

JOHN DOE subscriber assigned IP address
69.124.45.116,
:

Defendant
:

15 CV 1839
Civil Action No.

COMPLAINT – ACTION FOR
DAMAGES FOR PROPERTY
RIGHTS INFRINGEMENT

Plaintiff, Malibu Media, LLC, sues Defendant John Doe subscriber assigned IP address 69.124.45.116, and alleges:

Introduction

1. This matter arises under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the “Copyright Act”).

2. Defendant is a persistent online infringer of Plaintiff’s copyrights. Indeed, Defendant’s IP address as set forth on Exhibit A was used to illegally distribute each of the copyrighted movies set forth on Exhibit B.

3. Plaintiff is the registered owner of the copyrights set forth on Exhibit B (the “Copyrights-in-Suit”).

Jurisdiction And Venue

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair competition).

5. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that the Defendant's acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District, and therefore this Court has personal jurisdiction over the Defendant because (i) Defendant committed the tortious conduct alleged in this Complaint in this State, and (ii) Defendant resides in this State and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

6. Based upon experience filing over 1,000 cases the geolocation technology used by Plaintiff has proven to be accurate to the District level in over 99% of the cases.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because Defendant or Defendant's agent resides or may be found in this District.

Parties

8. Plaintiff, Malibu Media, LLC, (d/b/a "X-Art.com") is a limited liability company organized and existing under the laws of the State of California and has its principal place of business located at 409 W. Olympic Blvd., Suite 501, Los Angeles, CA, 90015.

9. Plaintiff only knows Defendant by his, her or its IP Address. Defendant's IP address is set forth on Exhibit A.

10. Defendant's Internet Service Provider can identify the Defendant.

Factual Background

I. Defendant Used the BitTorrent File Distribution Network To Infringe Plaintiff's Copyrights

11. The BitTorrent file distribution network ("BitTorrent") is one of the most common peer-to-peer file sharing systems used for distributing large amounts of data, including, but not limited to, digital movie files.

12. BitTorrent's popularity stems from the ability of users to directly interact with each other in order to distribute a large file without creating a heavy load on any individual source computer and/or network. The methodology of BitTorrent allows users to interact directly with each other, thus avoiding the need for intermediary host websites which are subject to DMCA take down notices and potential regulatory enforcement actions.

13. In order to distribute a large file, the BitTorrent protocol breaks a file into many small pieces called bits. Users then exchange these small bits among each other instead of attempting to distribute a much larger digital file.

14. After the infringer receives all of the bits of a digital media file, the infringer's BitTorrent client software reassembles the bits so that the file may be opened and utilized.

15. Each bit of a BitTorrent file is assigned a unique cryptographic hash value.

16. The cryptographic hash value of the bit ("bit hash") acts as that bit's unique digital fingerprint. Every digital file has one single possible cryptographic hash value correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each bit is properly routed amongst BitTorrent users as they engage in file sharing.

17. The entirety of the digital media file also has a unique cryptographic hash value ("file hash"), which acts as a digital fingerprint identifying the digital media file (e.g. a movie). Once infringers complete downloading all bits which comprise a digital media file, the

BitTorrent software uses the file hash to determine that the file is complete and accurate.

18. Plaintiff's investigator, IPP International UG, established a direct TCP/IP connection with the Defendant's IP address as set forth on Exhibit A.

19. IPP International UG downloaded from Defendant one or more bits of each of the digital movie files identified by the file hashes on Exhibit A.

20. Defendant downloaded, copied, and distributed a complete copy of Plaintiff's movies without authorization as enumerated on Exhibit A.

21. Each of the cryptographic file hashes as set forth on Exhibit A correlates to a copyrighted movie owned by Plaintiff as identified on Exhibit B.

22. IPP International UG downloaded from Defendant one or more bits of each file hash listed on Exhibit A. IPP International UG further downloaded a full copy of each file hash from the BitTorrent file distribution network and confirmed through independent calculation that the file hash matched what is listed on Exhibit A. IPP International UG then verified that the digital media file correlating to each file hash listed on Exhibit A contained a copy of a movie which is identical (or alternatively, strikingly similar or substantially similar) to the movie associated with that file hash on Exhibit A. At no time did IPP International UG upload Plaintiff's copyrighted content to any other BitTorrent user.

23. IPP International UG connected, over a course of time, with Defendant's IP address for each hash value as listed on Exhibit A. The most recent TCP/IP connection between IPP and the Defendant's IP address for each file hash value listed on Exhibit A is included within the column labeled Hit Date UTC. UTC refers to Universal Time which is utilized for air traffic control as well as for computer forensic purposes.

24. An overview of the Copyrights-in-Suit, including each hit date, date of first

publication, registration date, and registration number issued by the United States Copyright Office is set forth on Exhibit B.

25. Plaintiff's evidence establishes that Defendant is a habitual and persistent BitTorrent user and copyright infringer.

Miscellaneous

26. All conditions precedent to bringing this action have occurred or been waived.

27. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

COUNT I
Direct Infringement Against Defendant

28. The allegations contained in paragraphs 1-27 are hereby re-alleged as if fully set forth herein.

29. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit B, each of which covers an original work of authorship.

30. By using BitTorrent, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.

31. Plaintiff did not authorize, permit or consent to Defendant's distribution of its works.

32. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

(A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;

(B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the

works audible and transmitting said performance of the works, by means of a device or process, to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and

(D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works nonsequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).

33. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

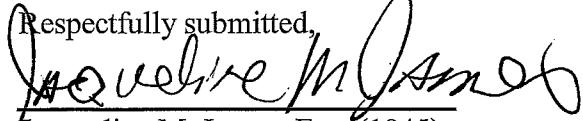
- (A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;
- (B) Order that Defendant delete and permanently remove the digital media files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;
- (C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;
- (D) Award Plaintiff statutory damages per infringed work pursuant to 17 U.S.C. § 504 (a) and (c);
- (E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and
- (F) Grant Plaintiff any other and further relief this Court deems just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

By:

Respectfully submitted,


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Attorneys for Plaintiff

File Hashes for IP Address 69.124.45.116

ISP: Optimum Online High Speed Internet Service

Physical Location: Monroe, NY

Hit Date UTC	File Hash	Title
02/03/2015 06:38:36	CA4F16A403B76D1C3130622F153A5CAE62D9C070	Sneaking In
01/04/2015 06:37:41	0CDB9EB253ACB8CBC1179BF47F7F751F894CB9F3	Summertime
12/24/2014 03:00:48	46462158DAC0A1E77893035A4D0BFC154906A058	Tight and Wet
12/21/2014 20:12:41	15500239961B397F15EB325A5A6B061481766E9A	First Time
12/02/2014 11:34:57	360AEE2DBF436B647FD0471E9039D047C2E9AFBF	Kacey Jordan Does Xart
11/28/2014 01:59:05	277F5E529C1DC4E5C93A2DDED014C305D4219921	Awe Inspiring Orgy
08/27/2014 05:25:01	49770005C089B473CBB7847E9148C7D6C9198914	Thunderstorm Love
08/26/2014 04:03:18	31A8D72B150EE349F6ED511A0698160D0450D826	A Hot Number
08/15/2014 04:46:37	5E0BBB66ECE81E9300EEE46E405CA0163A6BD77A	Russian Connection
08/13/2014 16:23:20	95B76C3F088368AA2774C94BD51954F4FD540B94	Not Alone
08/13/2014 02:47:59	CDD3F83CED0841089C91DB402B70C27C6212DEBE	For Your Eyes Only
08/11/2014 08:54:18	A240155A229CAC6DC97057B0FF4FBA41EA7617FF	Any And All For You
08/02/2014 17:41:37	0E2838E0523F6CD41EF2E29DE2B756DAC84794BB	Sexy In The City
07/06/2014 01:38:06	02744D186E0956E552C9AD10D76F915C46AA2D0C	Chloe Loves Carl Part 2
03/15/2014 18:58:59	0CA1F304A89F2D86B3BAE4AB7059D0CDDA600D1E	Making Music
02/02/2014 16:35:44	6B3FEACFC800C557D423E30C4A2A931898AB934	So Young
12/11/2013 12:38:46	98C0137E63F0B3867C018C07E295A7A7DDFB1E67	Body Language
12/11/2013 04:48:32	BCC824603D998149CDE21441B142247ABD8592D5	Tease and Please
10/12/2013 21:27:58	C5E5AC983137776F3C0EDFE9B12BFED330DEF23D	Malibu Moments Part #2
10/12/2013 07:24:29	207BCE70F1FBBDEE4359BB60039C7CEB1C86C4F9	Erotic Stretching and Sex
10/11/2013 08:24:48	257E35B62CBE71C0F4069E5C16ACF3A9CD9B9EC6	Malibu Moments
10/06/2013 15:49:24	DDDE13180007B7C679860F0E1838778ED705662F	In Charge

EXHIBIT A

SNY124

Hit Date UTC	File Hash	Title
10/06/2013 08:24:27	2C5F833FB38D4CCA307E1D5C57615AB1C8BBB68A	First and Forever
10/03/2013 19:20:06	56E946218EE026C0247B4D118AADE9C956A1D0DB	Date Night at Home
09/15/2013 05:01:51	F016D9A3F802E692CEEA31690DDC39B9CC8BCFDA	Wake Me Up Like This
08/22/2013 17:41:49	9D879219A3FEE86B141C823573A01529D3153994	Raw Passion
08/21/2013 13:20:05	93009435ED4C48428C6C9CC45DB7ACE2DE1C7509	Dreams Do Come True
08/21/2013 02:25:40	06D69109082EDF8C599155A9C94214A02D545575	Pool Party For Three
08/18/2013 06:14:03	2EBC9B30600A95A8C19EFE6FC4286815420DEF69	Czech Beauties
06/28/2013 05:17:41	6C529841401E6FBC3A7FC46CF05BE8455EC66552	Getting Down
05/15/2013 06:00:35	F58F8BB845F93064CE96A95C7A431F05D6A5C014	Everlasting Friendship

Total Statutory Claims Against Defendant: 31

Copyrights-In-Suit for IP Address 69.124.45.116**ISP:** Optimum Online High Speed Internet Service**Location:** Monroe, NY

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Sneaking In	PA0001860962	08/17/2013	09/08/2013	02/03/2015
Summertime	PA0001922274	11/09/2014	11/14/2014	01/04/2015
Tight and Wet	PA0001923176	11/19/2014	11/23/2014	12/24/2014
First Time	PA0001926092	12/13/2014	12/29/2014	12/21/2014
Kacey Jordan Does Xart	PA0001916065	10/04/2014	10/06/2014	12/02/2014
Awe Inspiring Orgy	PA0001917712	10/11/2014	10/19/2014	11/28/2014
Thunderstorm Love	PA0001909507	08/13/2014	08/26/2014	08/27/2014
A Hot Number	PA0001878456	01/30/2014	02/18/2014	08/26/2014
Russian Connection	PA0001886189	03/30/2014	04/02/2014	08/15/2014
Not Alone	PA0001889410	04/09/2014	04/15/2014	08/13/2014
For Your Eyes Only	PA0001909485	08/11/2014	08/19/2014	08/13/2014
Any And All For You	PA0001908677	08/02/2014	08/11/2014	08/11/2014
Sexy In The City	PA0001905511	06/27/2014	07/02/2014	08/02/2014
Chloe Loves Carl Part 2	PA0001906561	07/05/2014	07/14/2014	07/06/2014
Making Music	PA0001883769	03/07/2014	03/22/2014	03/15/2014
So Young	PA0001877472	01/25/2014	01/31/2014	02/02/2014
Body Language	PA0001868096	10/26/2013	11/01/2013	12/11/2013
Tease and Please	PA0001871937	11/23/2013	11/29/2013	12/11/2013
Malibu Moments Part #2	PA0001860958	08/15/2013	09/02/2013	10/12/2013
Erotic Stretching and Sex	PA0001862293	09/08/2013	09/08/2013	10/12/2013
Malibu Moments	PA0001862283	09/03/2013	09/08/2013	10/11/2013

EXHIBIT B

SNY124

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
In Charge	PA0001865956	10/04/2013	10/06/2013	10/06/2013
First and Forever	PA0001863112	09/21/2013	09/23/2013	10/06/2013
Date Night at Home	PA0001864689	09/29/2013	09/30/2013	10/03/2013
Wake Me Up Like This	PA0001862289	09/01/2013	09/08/2013	09/15/2013
Raw Passion	PA0001860979	08/18/2013	09/02/2013	08/22/2013
Dreams Do Come True	PA0001851979	06/26/2013	06/27/2013	08/21/2013
Pool Party For Three	PA0001859656	07/13/2013	08/01/2013	08/21/2013
Czech Beauties	PA0001859654	07/19/2013	08/01/2013	08/18/2013
Getting Down	PA0001838601	04/25/2013	05/14/2013	06/28/2013
Everlasting Friendship	PA0001834620	04/11/2013	04/12/2013	05/15/2013

Total Malibu Media, LLC Copyrights Infringed: 31